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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/690,852

10/21/2003

Christopher Stevens

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER

LEIVA, FRANK M

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

06/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/690,852	STEVENS ET AL.	
	Examiner	Art Unit	
	FRANK M. LEIVA	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,7,9-15,18,20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,7,9-15,18,20 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 23 February 2009 has been entered.

Acknowledgements

2. The examiner acknowledges amendments to claims 1-4, 7, 9-15, 18 and 20-21 in applicant's submission filed 23 February 2009.

Response to Arguments

3. Applicant's arguments with respect to claims 1-4, 7, 9-15, 18 and 20-21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4, 7, 9-10, 12-15, 18 and 20 are rejected under 35 U.S.C. 102(a) and (e) as being anticipated by Seelig et al. (US 2002/0107066 A1).

6. Regarding claims 1 and 12; Seelig discloses a gaming machine comprising a display displaying a number of won credits, (fig. 1); and a game controller controlling images of symbols to be displayed on the display, (¶ [0045]); effecting on the display a bonus feature wherein at least a first outcome is guaranteed to be a successful outcome, (fig. 5); awarding a prize of a number of credits, accumulating the number of credits to the won credits, (fig. 5); offering through the display a choice between continuing the bonus feature and ending the bonus feature, and, if the choice is continuing the bonus feature, determining a subsequent prize for a successful subsequent outcome, (fig. 9); a probability of a successful subsequent outcome based on the subsequent prize of a successful subsequent outcome and the credits accumulated, and a subsequent outcome, if the subsequent outcome is a successful outcome, offering through the display the option of continuing with the bonus feature, but if the subsequent outcome is an unsuccessful outcome, ending the bonus feature, and forfeiting at most a portion of the credits accumulated, (fig. 9).

7. Regarding claims 2 and 13; Seelig discloses wherein the game controller effects the bonus feature when a predetermined trigger condition occurs in a base game, (fig. 3 and 5).

8. Regarding claims 3, 4, 14 and 15; Seelig discloses wherein the display displays a paytable that indicates a number of credits that will be paid for various successful outcomes which occur during the playing of the bonus feature, and wherein the display includes a prize meter which provides a cumulative total of credits won due to successful outcomes which have occurred during the playing of the bonus feature (fig. 1), belly glass paytable and bonus meter 52 and 53 and total prize meter 54.

9. **Regarding claim 10;** Seelig discloses further comprising a selector receiving an input choice between continuing and ending the bonus feature, (¶ [0038]).

10. **Regarding claims 7 and 18;** Seelig discloses wherein the choice is continuing the bonus feature; the game controller determines the prize for a successful subsequent outcome using a weighted random selection, (claim 15).

11. **Regarding claims 9 and 20,** examiner takes **official notice** that all games of chance have and inherent probability and calculation of that probability is not dependent of an equation but on the rules of the game. Calculation of the probabilities involved in the game does not carry patentable weight.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. **Claims 11 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seeling in view of Arnold et al. (GB 2114347 A).**

14. Regarding the analogous combination of art; Seeling discloses a wagering game with a secondary game feature that allows the player to repetitive gamble the winnings of the base game in order to improve the prize; Arnold discloses a wagering game that allows the repetitive gamble of the winnings of the base game in a feature game.

15. **Regarding claims 11 and 21,** Seelig fails to disclose the amount of credits to be gambled in the feature game so we are left to assume that it is the entire amount;

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Arnold discloses wherein the portion of forfeited credits is half of the accumulated credits, (page 3 line 117-page 4 line 3). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to allow the player to control the amount of the winnings the player wished to risk on the feature game from Arnold's disclosure into the very similar disclosure of Seelig in order to enhance the player's choices in the game and play latency.

Examiner's Note

16. Examiner has cited paragraphs and figures in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK M. LEIVA whose telephone number is (571)272-2460. The examiner can normally be reached on M-Th 9:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter D. Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML

06/19/2009.

/Peter D. Vo/

Supervisory Patent Examiner, Art Unit 3714